MCI's witness, Ms. Ankum, provided a detailed study advocating an Oklahoma statewide crossover point of nine lines.[12]

Q: Why does Staff not agree with the positions presented by the parties?

A: Staff does not agree with SBC's position, which requires CLECs to generate additional revenues from the sale of data services to recover the additional cost of a DS1, as compared to the cost of four DS0s. SBC made the assumption that every customer with four or more lines will always purchase additional data services, which warrant the acquisition of a DS1. The FCC made clear that the cut-off point was the point where it was economically feasible for a competing carrier to provide **voice** service with its own switch using a DS1 or above loop.[13]

Staff did not consider the study presented by AT&T's witnesses, Mr. Flappan and Mr. Rhinehart, because they did not provide adequate Oklahoma-specific documentation to support their analysis.

Staff agrees with the analysis presented by Ms. Ankum, with the exception of the calculation of the statewide crossover point. It is Staff's position that a more appropriate statewide crossover point would be calculated using a weighted average to reflect the number of access lines in each UNE Rate Zone, rather than using a simple average as employed by Ms. Ankum.

Q: What is Staff's position regarding determination of the appropriate DS0/DS1 crossover point?

A: It is Staff's position that the most accurate statewide crossover point would be a weighted average, calculated based on the number of access lines in each UNE Rate Zone. Staff was not able to obtain a current count of the access lines in each UNE Rate Zone, but recent estimates indicate that a statewide, weighted average crossover point would be between ten and eleven lines. Therefore, it is Staff's position that, at a minimum, the appropriate DS0/DS1 crossover point in Oklahoma should be ten lines. Customers with less than ten lines should be included in the mass market, and customers with ten lines and above should be included in the enterprise market.

[12] Direct Testimony Ankum, March 22, 2004, p.96.
[13] TRO, footnote 1296.

Q: Does Staff have any other basis for determining the appropriate DS0/DS1 crossover point should be ten lines?

A: Yes. SBC's marketing department distinguishes small business customers as businesses that use up to ten lines. For example, SBC Business Unlimited is only available to business customers with 1–10 lines.[14] In the 2001 rulemaking, SBC proposed OAC 165:55-9-8, distinguishing business end-users having ten or more access lines from residential end-users and business end-users with less than 10 access lines. It is clear that SBC has made the distinction between small and large business customers at the ten-line level, which further supports Staff's position.

V. Impairment Analysis

Q: How did Staff conduct its impairment analysis in this proceeding?

A: Staff conducted its impairment analysis in this proceeding in an objective manner and in accordance with the directives of the FCC, as specified in the TRO.

Q: What specifically did the FCC direct state commissions to do?

A: The FCC directed state commissions to conduct a granular review, on a market-by-market basis, to evaluate local market conditions and determine if CLECs would be impaired without access to unbundled local circuit switching when serving mass market customers.[15] State commissions were directed to follow a two-step process to determine whether impairment exists in a particular market.[16]

Q: Please explain the FCC's two-step process.

A: For the first step of the process, the FCC adopted triggers as a principal mechanism for use by states in evaluating impairment. The triggers were designed to identify markets where multiple CLECs are using their own switches to serve mass market customers or to provide wholesale switching to other carriers.[17]

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[14] Southwestern Bell Communications Services, Inc. Voice Product Reference and Pricing Guidebook, Section 3.7.48.
[15] TRO ¶ 493.
[16] TRO ¶ 494.
[17] TRO ¶ 498.

Q: Please describe the FCC's triggers.

A: The FCC identified two triggers, the self-provisioning trigger and the competitive wholesale facilities trigger. The self-provisioning trigger requires the state commission to make a finding of "no impairment" in a particular market when three or more unaffiliated competing carriers are serving mass market customers with their own switches.[18] The competitive wholesale facilities trigger requires the state commission to make a finding of "no impairment" in a particular market when two or more carriers, not affiliated with each other or the ILEC, are using their own switch to provide wholesale switching service.[19] If the triggers are satisfied, state commissions are not obligated to undertake any further inquiry because no impairment should exist in that market. If the triggers are not satisfied, the state commission must proceed to the second step of the analysis.[20]

Q: What is involved in the second step of the analysis?

A: In the second step of the analysis, state commissions "must evaluate certain operational and economic criteria to determine whether conditions in the market are actually conducive to competitive entry, and whether carriers in that market actually are not impaired without access to unbundled local circuit switching."[21]

Q: If the Commission were to determine that the self-provisioning trigger had been met, and there was no impairment in a particular market, what affect would that decision have on the way ILECs and CLECs do business in Oklahoma?

A: If the Commission finds that there is no impairment in a particular market, the ILEC would no longer be obligated to provide unbundled switching, or the unbundled network element platform ("UNE-P") in that market. CLECs that are currently using UNE-P would be required to purchase their own switching facilities and provision local service utilizing the unbundled network element loop ("UNE-L").

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[18] TRO ¶ 501.
[19] TRO ¶ 504.
[20] TRO ¶ 494.
[21] *Id.*

Q: How did Staff obtain the information necessary to perform its impairment analysis?

A: Staff issued data requests to all ILECs operating in Oklahoma to determine which ILECs were currently providing ULS to CLECs. Staff asked the ILECs to identify locations, by wire center, where they believed the "local switching triggers" had been met.

Q: Did the ILECs provide the information necessary for Staff to perform its impairment analysis?

A: Responses to Staff's data requests revealed that SBC was the only ILEC in Oklahoma challenging the FCC's national finding that CLECs are impaired without access to ULS when serving the mass market. Because SBC challenged the FCC's impairment finding, it was SBC's responsibility to provide the necessary data to demonstrate non-impairment. SBC identified, on a wire center level, the locations were it believes specific CLECs are serving the mass market with their own switches. Staff issued data requests to those CLECs identified by SBC to verify SBC's assessment and to obtain additional information. With the information provided by SBC and the CLECs, Staff was able to identify the locations, by wire center, where CLECs are currently serving the mass market with their own switches.

Q: Has Staff reviewed the testimony filed by the parties in this cause, with respect to whether or not CLECs are impaired without access to unbundled local switching when serving mass market consumers?

A: Yes. Staff reviewed testimony filed by SBC witness, Gary Fleming, MCI witnesses, Rick Whisamore, August Ankum and Michael Starkey, and AT&T witnesses, James Prieger, Sean Minter, Robert Flappan and Daniel Rhinehart.

Q: What was SBC's position with respect to the FCC's finding of impairment, and application of the FCC's triggers?

A: Testimony filed by SBC witness, Gary Fleming, indicated that SBC is seeking relief from the requirement to unbundle local circuit switching under the FCC's self-provisioning trigger in the Oklahoma City and Tulsa MSA/WACPs. As stated earlier,

SBC has proposed the MSA/WACPs as the appropriate geographic markets for determining impairment. SBC identified four CLECs in the Oklahoma City MSA/WACP and three CLECs in the Tulsa MSA/WACP that they believe are serving mass market customers with self-provisioned switches. Mr. Fleming stated in his testimony that SBC is not seeking relief from unbundling under the FCC's wholesale facilities trigger.

Q: Did the other parties filing testimony agree with SBC's position?

A: No. All of the other parties dispute SBC's position that the self-provisioning trigger has been met.

Q: Please summarize the parties' positions?

A: AT&T witnesses, Mr. Flappan and Mr. Rhinehart, claim that CLECs have a significant cost disadvantage, as compared to the ILEC, when providing the same service. They estimate the cost disadvantage at approximately $12 per line per month.[22] AT&T also asserts that CLECs face substantial operational and economic entry barriers when they seek to offer service to mass market customers using their own switches and UNE-L. The primary barriers to entry claimed by AT&T are the costs to backhaul UNE-L traffic from the customer's serving ILEC wire center to the CLEC switch, and the cost of hot cuts to provision the migration of service to the CLEC switch. AT&T argues that the magnitude of these costs should result in a finding of impairment throughout Oklahoma.[23] AT&T's witness, Mr. Minter, advocates applying a set of five tests to evaluate whether a CLEC satisfies a trigger. Test 1 would determine whether the CLEC is unaffiliated with the ILEC or other CLECs identified as satisfying the trigger. Test 2 would determine whether the CLEC is actively providing basic voice service to mass market customers using non-ILEC switching. Test 3 would determine whether the CLEC is offering service throughout the specified geographic market. Test 4 would determine whether the CLEC is serving more than a *de minimis* number of mass market voice customers using non-ILEC switching. Test 5 would determine if the CLEC is likely to continue to actively

[22] Direct Testimony Flappan & Rhinehart, March 22, 2004, p.39

[23] Direct Testimony Flappan & Rhinehart, March 22, 2004, p.42.

serve mass market customers using non-ILEC switching.[24] Mr. Minter summed up his testimony by stating that, "based on the data already available and reviewed, the triggers are not met in any of the geographic areas identified."[25]

MCI witnesses, Michael Starkey and Rick Whisamore, explain the numerous operational aspects of UNE-L that contribute to the impairment faced by CLECs absent access to ULS. Mr. Starkey claims that MCI is impaired throughout Oklahoma without access to ULS and UNE-P.[26] Mr. Whisamore's testimony discusses the coordination, database, and ordering issues that characterize the operational barriers negatively affecting customers, and preventing UNE-L from being a viable option today for the mass market.[27]

Q: Based on the information provided by the parties, was Staff able to perform an impairment analysis, consistent with the directives in the TRO?

A: Yes. Staff was able to collect sufficient data to perform the trigger analysis, as well as analysis of potential operational and economic barriers associated with the use of competitive switching facilities.

Q: After analyzing all of these factors together, was Staff able to find any Oklahoma market where there was "non-impairment"?

A: No. Staff's analysis revealed that the self-provisioning trigger was not met in any market in Oklahoma and that CLECs are impaired without access to unbundled local circuit switching when serving mass market customers in Oklahoma.

Q: If Staff had used the MSA/WACP as the geographic market area, instead of the exchange, would the self-provisioning trigger have been met?

A: No, the results would have been the same.

Q: Please explain.

A: SBC identified four CLECs in the Oklahoma City MSA/WACP, MCI, Cox, Logix and NuVox, that they believed satisfied the self-provisioning trigger. Based on

[24] Direct Testimony Minter, March 24, 2004, p.7.
[25] *Id.*, p.16.
[26] Direct Testimony Starkey, March 22, 2004, p.3.
[27] Direct Testimony Whisamore, March 22, 2004, p.35.

information obtained and verified by Staff, only one of the four identified CLECs, [redacted], is actually serving mass market customers with its own switching. [redacted]. Two of the other identified CLECs, [redacted], serve only enterprise customers, and the fourth identified CLEC, [redacted], provides service to mass market customers via ILEC switching (UNE-P) only.

SBC identified three CLECs, MCI, NuVox and Xspedius, as having satisfied the self-provisioning trigger in the Tulsa MSA/WACP. Based on information obtained and verified by Staff, none of the three identified CLECs is providing voice service to mass market customers with non-ILEC switching. Staff confirmed that one of the identified CLECs, [redacted], provides service to mass market customers at the DS0 level, but with ILEC switching, not self-provisioned switching. Another identified CLEC, [redacted], provisions a limited number of DS0s, but only supplementary to their core enterprise customer service. The third identified CLEC, [redacted], does not provision any DS0s.

As a result, the self-provisioning trigger would not have been met in any market regardless of the market definition.

Q: Since Staff has determined that the self-provisioning trigger has not been met in any Oklahoma market, did Staff evaluate certain operational and economic criteria to determine whether conditions in the market are actually conducive to competitive entry, and whether carriers in that market actually are not impaired without access to unbundled local circuit switching?

A: Yes. Staff collected information from CLECs relating to the costs associated with providing voice service to mass market customers in Oklahoma. The information was provided in responses to data requests, as well as testimony filed by the parties. The data show that when it comes to serving residential and small business customers (mass market) in Oklahoma, CLECs cannot compete equitably with SBC unless they have access to UNE-P. The testimony filed by the CLEC parties in this proceeding details the complex technical issues involved in transitioning carriers from existing UNE-P arrangements to UNE-L. AT&T claims "because the CLEC does not have the economies of scale to directly connect their switch with efficient inter-office trunk groups to each of the ILEC's local switches, the

CLEC will be more reliant on the ILEC's tandem network for the exchange of traffic. This reliance puts the CLEC at a cost disadvantage because of the additional tandem switching costs and transport facilities that are needed to complete each of its calls."[28] AT&T goes on to discuss the various cost disadvantages CLECs would experience in the absence of UNE-P, such as collocation, backhaul, and hot cuts. The FCC based its impairment finding largely on evidence regarding the economic and operational barriers caused by the hot cut process. According to the FCC, these barriers include the non-recurring costs, the potential for disruption of service to the customer, and the ILEC's inability to handle the necessary volume of hot cuts in the absence of unbundled switching.[29]

Q: What is the hot cut process?

A: The hot cut process is the physical procedure of transferring a customer's line from the ILEC's switch to the CLEC's switch. The FCC directed state commissions to implement an efficient batch hot cut process that would reduce per-line hot cut costs.[30] Oklahoma's implementation of a batch hot cut process is detailed further in the testimony of Staff witness, Barbara Mallett.

Q: Besides the hot cut process, did Staff identify any other operational or economic barriers to using UNE-L?

A: Yes. In addition to the costs associated with the hot cut process, the costs of backhaul could also be a significant economic barrier to using UNE-L. It is Staff's position that the existing processes and procedures in place for UNE-L would most likely cause customers to experience a delay or loss of service when switching carriers.

Q: Please explain.

A: The UNE-L migration process in place today is highly manual and labor intensive. There are multiple databases such as E911, LIDB, Directory Assistance & Directory Listings, etc., that must be updated for migration from a UNE-P to a UNE-L environment. It is critical that these transfers of information be coordinated

[28] Direct Testimony Flappan and Rhinehardt, March 22, 2004, p.36.
[29] TRO ¶ 459.
[30] TRO ¶ 460.

seamlessly between providers. According to testimony filed by MCI, "a lack of coordination could result in errors in customer records, the loss of customer data, and loss of dial tone."[31]

Q: Was the FCC concerned about the affect the UNE-L migration process might have on customers?

A: Yes. The FCC stated, "The most critical aspect of any industry-wide transition plan is to avoid significant disruption to the existing customer base served via unbundled local circuit switching so that consumers will continue to have access to their telecommunications service."[32]

VI. Recommendation

Q: Please summarize Staff's recommendation.

A: Staff recommends the exchange as the appropriate geographic market for determining whether CLECs are impaired without access to ULS. Staff recommends ten lines as the mass market crossover point; business customers with ten or more lines should be considered part of the enterprise market. Finally, Staff recommends that the Commission find that CLECs are impaired without access to SBC's unbundled local circuit switching when serving the mass market in Oklahoma.

Q: Does this conclude your testimony?

A: Yes, it does.

[31] Direct Testimony Whisamore, March 22, 2004, p.52.
[32] TRO ¶ 529.

EXHIBIT 3

SUMMARY OF PREFILED TESTIMONY
OF
BARBARA MALLETT

PUD 200300646

Application of Joyce E. Davidson, Director of the Public Utilities Division, Oklahoma Corporation Commission, to Initiate a Proceeding for the Implementation of the Federal Communications Commission's Triennial Review Order

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RECOMMENDATIONS

Staff's makes the following recommendations with regard to SBC's proposed Batch Hot Cut options.

- Staff recommends that this Commission find that it is obligated only to approve a Batch Hot Cut ("BHC") process within nine months of the effective date of the TRO, rather than approve and implement a BHC process within nine months.

- Staff recommends that this Commission find that absence of a batch cut process(es) would impair carriers in the absence of mass-market switching provided as a UNE.

- Staff recommends that this Commission find that an appropriate minimum number of loops contained in a batch is two.

- Staff recommends that the three BHC options proposed by SBC for its eleven-state region be approved and implemented by this Commission for use in all areas served by SBC, with the modifications listed below. Staff further recommends that a Cause or Causes be opened by the Commission to address the following matters.

  1- The first matter Staff will address involves testing and scalability. Staff recommends that the proposed system modifications be examined and tested by an independent third party under the Commission's oversight. This testing should

be at SBC's expense and, in recognition of the fact that the OSS is a regional system, should be carried out to the extent possible in conjunction with the other states in the SBC region. Staff also recommends that SBC report Oklahoma-specific BHC-related data on a monthly basis in order to aid in determining appropriate Performance Measure ("PM") benchmarks.

2- In the second matter, Staff recommends that the following issues not be included as a condition for approval of SBC's proposed BHC processes, but rather be pursued on a going forward basis in regional workshops. When consensus has been reached regarding how to include the following types of migration in the OSS, the Commission should open a cause to adopt resolved issues and settle any outstanding problems relevant to Oklahoma's telecommunications carriers.

- CLEC-to-CLEC migration and cross-connects
- Line Splitting and Line Sharing
- Enhanced Extended Loops (EELs)

3- The third matter concerns SBC's current OSS and enhancements that SBC has proposed to implement in 2004. Staff recommends that these proposed enhancements be approved.

4- The fourth matter addresses CLEC concerns regarding additional support missing from SBC's current BHC process options and OSS support after the additional enhancements proposed by SBC.

- Staff recommends that SBC be ordered to continue to work with the CLECs who wish to use trap-and-trace in order to facilitate the process of implementation.
- With regard to the additional OSS Enhancements proposed by the CLEC's and Staff of the Texas Public Utility Commission, Mr. Nara Srinivasa, Staff agrees with Mr. Srinivasa's conclusions and recommends that the four issues be addressed via a series of regional collaborative workshops.

5- The fifth matter is the thirteen-day scheduling/provisioning interval. Staff recognizes that the thirteen-day interval proposed by SBC is an issue for the

CLECs. Staff recommends that the PMs for BHC for new customers should be disaggregated from those for embedded base customers. Staff recommends that the possibilities for a more workable solution in context of new customers be discussed in the regional workshops where other such issues will be addressed.

6- The sixth matter involves CLEC access to SBC's GR 303 equipment to avoid having their IDLC loops moved to a copper pair or universal digital loop carrier. Staff recommends that SBC's GR 303 equipment not be made available to CLECs at this time. However, if and when solutions are found to the unresolved problems noted above, Staff also recommends that this issue be revisited.

7- The seventh matter concerns the need for additional and revised PMs as a result of any changes made to the OSS. The existing PMs were developed in a series of regional collaborative workshops to allow all of the affected entities sufficient opportunity to review, consider, and discuss each proposed change and propose any others that may be needed in order to address CLEC concerns adequately. Staff recommends that any changes to the existing PMs should be made using the same process.

- Staff recommends that the Commission should contract with an independent third-party cost expert, at SBC's expense, to review the cost study and rates proposed by SBC.

DISCUSSION

At paragraph 423 of the TRO, the FCC defines BHC as:

> a seamless, low-cost process for transferring large volumes of mass market customers

At 47 C.F.R. §51.319(d)(2)(ii), the FCC continues that a batch cut process is:

> that process by which the ILEC simultaneously migrates two or more loops form one carrier's switch to another carrier's switch, "giving rise to operational and economic efficiencies" not available when loops are migrated on a line-by-line basis.

The physical process involves a manual "lift-and-lay" of a customer's loop to remove the connection from SBC's switch and establish a new connection to the CLEC's switch. SBC's current hot cut process is available for orders of up to twenty-four lines end-user address during normal business hours, 8:00 a.m. through 5:00 p.m. Monday through Friday excluding holidays.

SBC has also established a "project" offering to handle orders for more than twenty-four lines that terminate at one end-user address. The proposed BHC options are intended to enhance the current process and "project" offering to allow routine handling of larger volumes of conversions.

Staff's understanding of SBC's proposed BHC process is that it consists of three separate proposed processes: 1) the Enhanced Daily Process, 2) the Defined Batch Process, and 3) the Bulk Project Offering. In each of these proposed processes, the CLEC may choose between a Coordinated Hot Cut ("CHC") and a Frame Due Time ("FDT") option, depending upon which is most convenient for the CLEC. CHC involves manual coordination and communications between SBC and CLEC staff on the day of the hot cut, or "lift-and-lay", to facilitate and coordinate the cut-over. FDT, however, allows SBC and the CLEC to negotiate, or the CLEC to request, a time period during which the hot cuts will be accomplished. An FDT involves no real-time manual coordination between SBC and the CLEC; each separately performs whatever tasks are necessary to complete the cut-over on the date and within the agreed upon time frame.

Enhanced Daily Process

According to SBC's "11-State Final Batch Hot Cut Proposal", the Enhanced Daily Process is intended primarily to support CLEC acquisitions of new customers. SBC places no limit, beyond existing project limits, on the number of daily Local Service Requests ("LSRs") a CLEC may submit. This option supports changes in carriers using SBC's switch including:

1) UNE-P to UNE-L with Local Number Portability ("LNP") with a different CLEC,

2) Resale to UNE-L with LNP with a different CLEC, and

3) SBC Retail to UNE-L with LNP.

The provisioning interval available under the Enhance Daily Process is between two and five days. This option is available between 8:00 a.m. and 5:00 p.m. weekdays, excluding holidays. CLECs may choose between CHC and FDT options. Also, the Defined Batch Cut process allows a CLEC to schedule its batch cuts using a reservation tool that permits the CLEC to reserve time slots, and SBC will provide enhancement to its Provisioning Web Site ("PWS") that allows CLECs to track their hot cuts. Mechanized order flow-through is supported.

This option also supports Integrated Digital Loop Carrier ("IDLC") loops. IDLC is a technology that integrates the digital loop carrier system directly into a switch on a digital basis, typically at a DS1 level. Because IDLC loops are at the DS1 level and terminate directly on the switch, as opposed to terminating on the main distribution frame ("MDF"), SBC must move IDLC provisioned service to either copper loop or an unbundled IDLC ("UDLC") system to perform a hot cut. Once this is accomplished, the circuit has the appearance of the MDF, from which the hot cut can be made to the CLEC switch.

Defined Batch Cut option proposed by SBC.

According to SBC's proposal, the Defined Batch Cut Process is intended to support migrations of an embedded base of resold and UNE-P mass-market loops to the CLEC's own switch. This option allows CLECs to use one service order to schedule up to 100 cut-overs at a central office ("CO"), with a 200-line maximum per CO per day. The following types of changes are supported.

Migrations of embedded base (same customer and carrier, different switch):

- UNE-P to UNE-L with LNP with the same CLEC, and
- Resale to UNE-L with LNP with the same CLEC,

New customer acquisitions:

- UNE-P to UNE-L with LNP with a different CLEC,
- Resale to UNE-L with LNP with a different CLEC, and
- SBC Retail to UNE-L with LNP.

IDLC loops can be included under this option. SBC states that a thirteen-day scheduling period is required to provision batch cuts under this option. The CHC option is available Monday through Friday from 8:a.m. through 5:00 p.m. and also Monday through Friday from 6:00 a.m. through 8:00 a.m. (minimum 25 lines and maximum 50 lines), and 5:00 p.m. through midnight (minimum 25 lines and maximum 100 lines). In addition, CHCs can be scheduled for Saturdays from 8:00 a.m. through 5:00 p.m. (minimum 50 lines and maximum 200 lines). All of these times exclude holidays. FDT can be scheduled for 8:00 a.m. through 5:00 p.m. Monday through Friday and 6:00 a.m. through 8:00 a.m. Monday through Friday (minimum 25 lines and

maximum 50 lines). These times also exclude holidays. IDLC loops must be cut-over during normal work hours, 8:00 a.m. through 5:00 p.m. SBC estimates that it can accommodate 20 hot cuts per hour during normal business hours and twenty-five per hour out-of-hours (not between 8:00 a.m. and 5:00 p.m.). The Defined Batch Cut process allows CLECs to use one service order to schedule up to 100 lines at a single CO, whereas the Enhanced Daily process requires a service order for each customer location. Also, the Defined Batch Cut process allows a CLEC to schedule its batch cuts using a reservation tool that permits the CLEC to reserve time slots, and SBC will provide enhancements to its PWS that allow CLECs to track their hot cuts. Mechanized order flow-through is supported.

The Defined Batch Process is CO-based in that it allows a CLEC the ability to schedule multiple CO conversions on a single day. SBC claims that it will be able to migrate sufficient volumes to convert its entire embedded base within 27 months, thereby fulfilling the TRO's requirement.

Bulk Project

According to SBC's proposal, the Bulk Project option is intended to support the scheduling of large volumes of CLEC hot cuts for either embedded base customers or newly acquired customers. Bulk Project requires a minimum of 20 lines, and offers either the CHC or FDT option. This option allows a CLEC to schedule more than 100 CHCs in a single day, at a single or multiple COs. Enterprise customers may be scheduled along with other types of conversions under this option. SBC plans to add EELs to this option at a later date. Off-hours scheduling is available under this option beyond those hours mentioned for the Defined Batch Process, excluding Sundays. New acquisitions who are either mass-market end-users subscribing to voice service as an SBC retail customer or as another CLEC's resale or UNE-P customer may be transitioned using this option. The Bulk Project may also be used to migrate a CLEC's embedded base of resale and UNE-P mass market customers and enterprise DS0 customers. IDLC loops may be cut-over using this option during normal business hours (8:00 a.m. through 5:00 p.m. Monday through Friday). Any combination of these cut-overs may be included in a batch. The scheduling/provisioning period under this option is negotiated by the parties.

According to SBC witness Carol Chapman, SBC's total Oklahoma embedded base consists of roughly 75,000 UNE-P lines with no more than 5,000 lines of embedded base in any CO. Ms. Chapman states that about ninety-five percent of SBC's 200 COs have fewer than 2,000 UNE-P lines.

The FCC requires that the ILECs move at least one-third of their unbundled switching end-users to a non-ILEC switch within thirteen months. The next one-third must be migrated within the next seven months. The final one-third must be transitioned within another seven months. The total time for transitioning SBC's embedded UNE-P base is twenty-seven months. In the opinion of SBC Staff witness Carol Chapman and other SBC witnesses, the proposed options would suffice to move SBC's entire Oklahoma embedded base to non-SBC switches. However, none of the options have been tested at commercial volumes.

In Staff's opinion, the three options represent an improvement in operational efficiency over the existing hot cut process offered by SBC. The proposed processes are specifically intended to support large volume cut-overs, whereas the current hot cut process is not. Approval of the three options and implementation of each would serve to mitigate the operational impairment issues associated with loop migrations. However, some issues will still exist.

In Staff's opinion, the primary issues remaining with regard to SBC's proposed BHC processes involve

1. scalability of the processes to the commercial volumes required if switching is no longer required as a UNE and testing of the processes at those volumes,
2. tracking of the processes by CLECs,
3. which types of service (voice only, split or shared loops, EELs, cross-connects, CLEC-to-CLEC migration) should be included in the processes,
4. additional enhancements SBC proposes to enhance its BHC process options and PWS,
5. additional enhancements needed to address CLEC concerns,
6. the problematic nature of the thirteen-day provisioning interval proposed in the Defined Batch Cut option,

7. unbundled IDLC loops, and

8. development/revision and acceptance of PMs to track SBC's performance using the new processes.

EXHIBIT 4

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PREFILED TESTIMONY

OF

BARBARA MALLETT

PUD 200300646

Application of Joyce E. Davidson, Director of the Public Utilities Division, Oklahoma Corporation Commission, to Initiate a Proceeding for the Implementation of the Federal Communications Commission's Triennial Review Order

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Q: Please state your name and business address.

A: My name is Barbara L. Mallett. My business address is the Jim Thorpe Office Building, Room 500, Oklahoma City, OK.

Q: Where are you employed and in what capacity?

A: I am employed by the Public Utility Division ("Staff") of the Oklahoma Corporation Commission ("OCC" or "Commission") as a Public Utility Regulatory Analyst.

Q: Have you testified previously before the Commission?

A: Yes, I have.

Q: Have your credentials been accepted by the Commission?

A: Yes.

Q: What is the purpose of Staff's testimony?

A: The purpose of this testimony is to make a recommendation on behalf of Staff in response to the Application filed by Joyce E. Davidson opening a proceeding to implement the Federal Communication Commission's ("FCC's") Triennial Review Order ("TRO"). Specifically, this testimony will address Staff's findings with regard to Track 2 – Batch Hot Cut ("BHC").

RECOMMENDATIONS

Q: What are your recommendations in this Cause?

A: Staff's makes the following recommendations.

- Staff recommends that this Commission find that it is obligated only to approve a Batch Hot Cut ("BHC") process within nine months of the effective date of the TRO, rather than approve and implement a BHC process within nine months.

- Staff recommends that this Commission find that absence of a batch cut process(es) would impair carriers in the absence of mass-market switching provided as a UNE.

- Staff recommends that this Commission find that an appropriate minimum number of loops contained in a batch is two.

- Staff recommends that the three BHC options proposed by SBC for its eleven-state region be approved and implemented by this Commission for use in all areas served by SBC, with the modifications listed below. Staff further recommends that a Cause or Causes be opened by the Commission to address the following matters.

  1- The first matter Staff will address involves testing and scalability. Staff recommends that the proposed system modifications be examined and tested by an independent third party under the Commission's oversight. This testing should be at SBC's expense and, in recognition of the fact that the OSS is a regional system, should be carried out to the extent possible in conjunction with the other states in the SBC region. Staff also recommends that SBC report Oklahoma-specific BHC-related data on a monthly basis in order to aid in determining appropriate Performance Measure ("PM") benchmarks.

  2- In the second matter, Staff recommends that the following issues not be included as a condition for approval of SBC's proposed BHC processes, but rather be pursued on a going forward basis in regional workshops. When consensus has been reached regarding how to include the following types of migration in the OSS, the Commission should open a cause to adopt resolved

issues and settle any outstanding problems relevant to Oklahoma's telecommunications carriers.

- CLEC-to-CLEC migration and cross-connects
- Line Splitting and Line Sharing
- Enhanced Extended Loops (EELs)

3- The third matter concerns SBC's current OSS and enhancements that SBC has proposed to implement in 2004. Staff recommends that these proposed enhancements be approved.

4- The fourth matter addresses CLEC concerns regarding additional support missing from SBC's current BHC process options and OSS support after the additional enhancements proposed by SBC.

- Staff recommends that SBC be ordered to continue to work with the CLECs who wish to use trap-and-trace in order to facilitate the process of implementation.
- With regard to the additional OSS Enhancements proposed by the CLEC's and Staff of the Texas Public Utility Commission, Mr. Nara Srinivasa, Staff agrees with Mr. Srinivasa's conclusions and recommends that the four issues be addressed via a series of regional collaborative workshops.

5- The fifth matter is the thirteen-day scheduling/provisioning interval. Staff recognizes that the thirteen-day interval proposed by SBC is an issue for the CLECs. Staff recommends that the PMs for BHC for new customers should be disaggregated from those for embedded base customers. Staff recommends that the possibilities for a more workable solution in context of new customers be discussed in the regional workshops where other such issues will be addressed.

6- The sixth matter involves CLEC access to SBC's GR 303 equipment to avoid having their IDLC loops moved to a copper pair or universal digital loop carrier. Staff recommends that SBC's GR 303 equipment not be made available to CLECs at this time. However, if and when solutions are found to

the unresolved problems noted above, Staff also recommends that this issue be revisited.

7- The seventh matter concerns the need for additional and revised PMs as a result of any changes made to the OSS. The existing PMs were developed in a series of regional collaborative workshops to allow all of the affected entities sufficient opportunity to review, consider, and discuss each proposed change and propose any others that may be needed in order to address CLEC concerns adequately. Staff recommends that any changes to the existing PMs should be made using the same process.

- Staff recommends that the Commission should contract with an independent third-party cost expert, at SBC's expense, to review the cost study and rates proposed by SBC.

GENERAL CONSIDERATIONS

Q: What obligations does the FCC place on the state commissions in the Triennial Review Order ("TRO")?

A: In the TRO, the FCC requires the following decisions and actions of the state commissions:

> State commissions must approve, within nine months of the effective date of this Order, a batch cut migration process to be implemented by incumbent LECs that will address the costs and timeliness of the hot cut process. Alternatively, state commissions must make detailed findings explaining why such a process is not necessary in a particular market, as described below. ... Should a state commission fail to approve a batch cut migration process or provide a detailed explanation why such a process is not necessary within nine months of this Order's effective date, an aggrieved party will be permitted to initiate a proceeding with this Commission. (paragraph 488)

More specifically, 47 C.F.R. § 51.319(d)(2)(ii) requires the following:

> **Batch cut process.** In each of the markets that the state commission defines pursuant to paragraph (d)(2)(i) of this section, the state commission shall either establish an incumbent LEC batch cut process as set forth in paragraph (d)(2)(ii)(A) of this section or issue detailed findings explaining why such a batch process is unnecessary, as set forth in paragraph (d)(2)(ii)(B) of this section. A batch cut process is defined as a process by which the incumbent LEC simultaneously migrates two or more loops from one carrier's local circuit switch to another carrier's local circuit switch, giving rise to operational and economic efficiencies not available when migrating loops from one carrier's local circuit switch to another carrier's local circuit switch on a line-by-line basis.

> (A) A state commission shall establish an incumbent LEC batch cut process for use in migrating lines served by one carrier's local circuit switch to lines served by another carrier's local circuit switch in each of the markets the state commission has defined pursuant to paragraph (d)(2)(i) of this section. In establishing the incumbent LEC batch cut process:
>
> (1) A state commission shall first determine the appropriate volume of loops that should be included in the "batch."
>
> (2) A state commission shall adopt specific processes to be employed when performing a batch cut, taking into account the incumbent LEC's particular network design and cut over practices.
>
> (3) A state commission shall evaluate whether the incumbent LEC is capable of migrating multiple lines served using unbundled local circuit switching to switches operated by a carrier other than the incumbent LEC for any requesting telecommunications carrier in a timely manner, and may require that incumbent LECs comply with an average completion interval metric for provision of high volumes of loops.
>
> (4) A state commission shall adopt rates for the batch cut activities it approves in accordance with the Commission's pricing rules for unbundled network elements. **These rates shall reflect the efficiencies associated with batched migration of loops** to a requesting telecommunications carrier's switch, either through a reduced per-line rate or through volume discounts as appropriate.
>
> (B) If a state commission concludes that the absence of a batch cut migration process is not impairing requesting telecommunications carriers' ability to serve end users using DS0 loops in the mass market without access to local circuit switching on an unbundled basis, that conclusion will render the creation of such a process unnecessary. In such cases, the state commission shall issue detailed findings regarding the volume of unbundled loop migrations that could be expected if requesting telecommunications carriers were no longer entitled to local circuit switching on an unbundled basis, the ability of the incumbent LEC to meet that demand in a timely and efficient manner using its existing hot cut process, and the non-recurring costs associated with that hot cut process. The state commission further shall explain why these findings indicate that the absence of a batch cut process does not give rise to impairment in the market at issue.

Q: Please explain Staff's understanding of the time frame set out by the FCC for approval and implementation of a BHC process.

A: As was quoted above, the FCC stated in paragraph 488 of the TRO that the state commissions must approve a BHC process within nine months of the effective date of the TRO. That same paragraph continues to state that an aggrieved party may initiate a proceeding before the FCC if the state commission should fail to act as directed within nine months. However, at paragraph 460 of the TRO, the FCC states:

> … state commissions must, within nine months from the effective date of this Order, approve and implement a batch cut process that will render the hot cut process more efficient and reduce per-line hot cut costs.

Staff realizes that modifications of systems as complex as Southwestern Bell Telephone, LP d/b/a SBC Oklahoma's ("SBC") Operation Support System ("OSS") require considerable